

102.15 VENUE

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2-19-09

Rescind 102.15 and replace with the following:

In the event of any dispute concerning a project, whether over its advertisement, bidding, award, execution, or claim, any litigation filed by or against the Department has venue only in Lewis and Clark County.

102.17 PUBLIC WORKS CONTRACTS

Page 16

12-18-08

Add the following Subsection:

102.17 PUBLIC WORKS CONTRACT

Department projects under these specifications are public works contracts. Projects under these specifications require Contractors to provide all resources necessary to complete the project, fully complying with its plans and specifications. They are not "sales", nor are they sales of "goods", as those terms are used in Montana's Uniform Commercial Code (UCC). The UCC, particularly its Chapter 2, does not apply to these projects, and the contractor concurs with that by submitting its bid.

103.07 EXECUTION AND APPROVAL OF CONTRACT

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8-1-06

Rescind part D under the third paragraph and replace with the following:

- D. Possessing a current special fuel user permit issued under 15-70-302 MCA, or a letter stating that no special fuel will be used.

103.09 SUBMISSION OF BID DOCUMENTATION

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12-18-08

Rescind Subsection 103.09 and replace with the following Subsections:

103.09 SUBMISSION OF BID DOCUMENTATION

103.09.1 General

The following requirements apply when submission of bid documents is required by the contract.

103.09.2 Bid Documents

The term "Bid Documentation," as used in this specification, means any writings, working papers, computer printouts, charts, schedules of any kind (e.g., CPM, bar chart, etc.), and any data compilations, computerized or not, used by the Contractor to determine the bid it submits for this project. "Bid Documentation" includes, but is not limited to, Contractor equipment internal rates for ownership, Contractor overhead rates, labor rates, cost coding, equipment and manpower loading of activities, efficiency or productivity factors, scheduling calculations, written review or analysis of the site of the work, written analysis of how the work should be performed, arithmetic extension, worksheets used to prepare the bid (identifying by name and edition any software programs used to prepare them), and all quotations to the extent that these items were used in formulating and preparing the amount of the bid. "Bid Documentation" also includes identification of all manuals which are standard to the industry used by the Contractor in preparing the bid for this project. (Include these manuals in the bid documentation and the inventory by reference to their title, author, edition, date and page or section number.) The term does not include bid documents provided by the Owner (e.g., plans, specifications, etc.) for use by the Contractor in bidding on this project.

103.09.3 Bid Documentation Inventory Form

Use the most current Department Form CSB103_09 "Bid Documentation Inventory" with the bid documentation. Follow all directions for the bid documentation listed on Form CSB103_09. The forms must be signed by an authorized agent for the bidder. The form is available at the following web page:
<http://www.mdt.mt.gov/publications/forms.shtml#contract>

103.09.4 Submission and Storage of Bid Documents

No later than the fourth business day after the date of bid-opening (the date of bid opening to count as the first full day), the apparent low bidder must submit to the Contract Plans Bureau, during its regular work hours, a legible copy of all bid documentation it used to prepare its bid.

Place the bid documentation in sealed envelopes no smaller than 8 1/2-inch x 11-inch and no larger than 10-inch x 13-inch. If multiple sealed envelopes are provided in some form of container, do not lock or seal it. Submit two completed "Bid Documentation Inventory" (Form CSB103_09) with the bid documentation, signed by an authorized agent for the bidder. Use the most current Department form.

The container (if used) will be emptied and the sealed envelopes secured by an agent of the Department's Construction Administration Services Bureau at the place of storage in Helena. An agent of the Contractor, at its discretion, may be present at the time the documentation is placed in the Department's place of storage. One Form CSB103_09 must be attached to the outside of the first sealed envelope and the other will be kept in the Construction Administration Services Bureau's project file.

If the apparent low bidder, for whatever reason, is not awarded the contract, the apparent second low bidder will be told that it has four business days from the date of its verbal notification (followed immediately in writing) to comply with the above requirements. That Contractor must comply with those requirements.

103.09.5 Bid Responsiveness

The Bid Documentation Inventory form on the outside of the first envelope will be reviewed for completeness and responsiveness. If found to be incomplete, or if it is determined that the contents are not accurately shown on the inventory, the bid will be considered non-responsive and rejected under 102.08.

A bidder's failure to provide its full bid documentation automatically makes its bid non-responsive and it will be rejected. It will also be considered a refusal to enter into the contract, and the bidder's proposal guaranty will be forfeited due to its failure to evidence its good faith in fully submitting that bid. The second low, responsive responsible bid will then be reviewed and required to meet the above requirements.

103.09.6 Opening of Bid Documentation

If the bid documents are opened for the reasons in parts A and B below, they will be opened the next business day following notification. The bid documents will be reviewed in an attempt to resolve the issues. The apparent low bidder or its representative may be present during the opening. Whenever the bid documents are opened, the documents become the property of the Department for its use.

A. Award Guidelines. The bid documents may be opened if the bid is outside the award's guidelines. The Department will attempt a resolution with the Contractor first and the bid documentation will only be opened if the Contractor cannot provide written justification for being outside of the guidelines to the Department's satisfaction.

B. Unbalanced Bid. The bid documents may be opened if the bid has items that appear to be unbalanced, either materially or mathematically.

C. Claims. In the event that the Contractor submits a written notice of claim requesting compensation, reimbursement or contract time, or an action in any court, based upon the contract, is filed, the copies of the bid documentation become the property of the Department for its use, specifically including use in preparing for and conduct of all claims, disputes, or litigation. Failure to submit all documentation and inventory as required above, or listing on the inventory documentation that is not actually provided as required, will be a material breach of the contract, is a failure to comply with a condition precedent to filing a claim or lawsuit, acts as a total and final waiver of all claims or disputes involving matters that would have been included (e.g., claims of delay, changed site conditions, loss of productivity, etc.), and subjects the Contractor to action under ARM 18.3.101 et seq.

If the bid documents are opened subsequent to a written notice of claim, the Contractor will be notified and may have a representative present during the opening.

103.09.7 Return of Bid Documentation

The bid documentation will remain in the storage location during the life of the contract. It will be returned after a certificate of completion has been issued for the project and a release of claims has been signed. An agent of the Contractor may be present at the time the documents are removed from the storage location.

104.02.3 SIGNIFICANT CHANGES IN THE CHARACTER OF WORK

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11-1-06

Delete the first sentence of paragraph four (that begins with "The term ...") and replace with the following:

The term "significant change" applies when one or more of the following circumstances is met:

104.02.4 CHANGE ORDERS

Page 22

11-1-07

Rescind Part C. in the first paragraph (that begins with "Contract time ...") and replace Part C. with the following:

C. Contract time adjustments per Subsection 108.07.05.

104.05.2 FAILURE TO PROPERLY MAINTAIN ROADWAY OR STRUCTURE

Page 23

3-1-07

Rescind Subsection 104.05.2 and replace with the following:

The Project Manager will immediately notify the Contractor if it fails to maintain the project. Failure to begin to remedy unsatisfactory maintenance within 4 hours of notification may result in:

- The Department performing the required repair. The cost of the repair will be deducted from monies due or to become due to the Contractor, or otherwise be billed to the Contractor.
- Contract time being charged. Contract time will be charged starting on the day of the Department's initial notification and will continue until the repairs are made and the Project Manager approves the repairs.

104.05.4 MAINTENANCE FOR TRAFFIC DURING WORK SUSPENSIONS

Page 24

3-1-07

Rescind Subsection 104.05.4 and replace with the following:

- A. Temporary Suspension. Make passable and open to traffic all portions of the project, connections, and temporary roadways before temporary work suspensions. Maintain parts of the project, connections, temporary roadways, and detours under traffic at Contractor expense during work suspensions.
- B. Winter Suspension. Be responsible for all traffic control and maintenance during winter weather shutdowns, including the time between November 16th and April 15th. Be responsible for all snow removal, sanding, and de-icing for all roadways not completed through the first lift of plant mix surfacing. Furnish all necessary